

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: MAR 31 2015

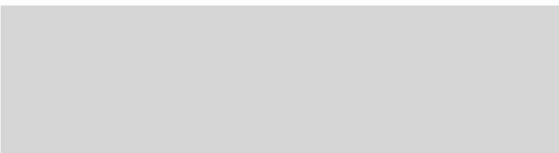
OFFICE: TEXAS SERVICE CENTER

FILE: [Redacted]

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

Petition: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained, the director's decision will be withdrawn, and the petition will be approved.

The petitioner describes itself as an IT consulting and development business. It seeks to employ the beneficiary permanently in the United States as a programmer analyst. The petition is accompanied by an ETA Form 9089, Application for Permanent Employment Certification (labor certification), certified by the U.S. Department of Labor (DOL). The director determined that the beneficiary does not possess a single degree that is determined to be the foreign equivalent of a U.S. baccalaureate degree to qualify as an advanced degree professional under section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). The director denied the petition accordingly.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

In pertinent part, section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), provides immigrant classification to members of the professions holding advanced degrees or their equivalent and whose services are sought by an employer in the United States.

The petitioner must establish that the beneficiary satisfied all of the educational, training, experience and any other requirements of the offered position by the priority date. 8 C.F.R. § 103.2(b)(1), (12). *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 159 (Act. Reg. Comm. 1977); *see also Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg. Comm. 1971).

The labor certification requires a master's or foreign equivalent degree and three years of experience as a programmer analyst or related, or a bachelor's or foreign equivalent degree and five years of experience as a programmer analyst. The record contains a copy of the beneficiary's Bachelor of Science degree from [REDACTED] completed in 1995, and a copy of the beneficiary's postgraduate diploma in Management Information Systems and Computer Applications from [REDACTED], completed in 1999.

Upon review of the entire record, including evidence submitted on appeal and in response to a Request for Evidence, we conclude that the petitioner has established that it is more likely than not that the beneficiary had all the education, training, and experience specified on the ETA Form 9089 as of the November 22, 2013 priority date. The petitioner has also demonstrated that it is more likely than not that it had the ability to pay the proffered wage from the priority date pursuant to 8 C.F.R. § 204.5(g)(2). Accordingly, the petition is approved under section 203(b)(2) of the Act, 8 U.S.C. § 1153(b)(2).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has met that burden.

ORDER: The appeal is sustained. The director's decision is withdrawn, and the petition is approved.